

April 17, 2017

VIA ELECTRONIC FILING

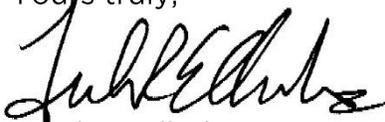
Ms. Jocelyn Boyd, Chief Clerk/Administrator
Public Service Commission of South Carolina
Synergy Business Park, Saluda Building
101 Executive Center Drive
Columbia, SC 29210

Re: **Ashley June v. Duke Energy Progress, LLC**
Docket No. 2017-112-E

Dear Ms. Boyd:

Enclosed for filing please find Duke Energy Progress, LLC's Motion to Dismiss the June Complaint and request to hold the filing deadlines for all parties and hearing date in abeyance pending resolution of the motion. By copy of this letter we are serving the same on the parties of record. Should you have any questions, please contact me.

Yours truly,



Frank R. Ellerbe, III

FRE:tch

Enclosure

cc/enc: David Stark, Hearing Examiner (via email)
Ashley June (via US Mail)
Jenny R. Pittman, Esquire (via email & US Mail)
Heather S. Smith, Deputy General Counsel (via email)
Rebecca J. Dulin, Senior Counsel (via email)
Kim H. Smith, Regulatory Affairs (via email)

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

Docket No. 2017-112-E

In re:)	
)	
Ashley June,)	
Complainant/Petitioner,)	DUKE ENERGY PROGRESS, LLC's
)	MOTION TO DISMISS
v.)	
)	
Duke Energy Progress, LLC,)	
Defendant/Respondent.)	
<hr/>)	

Pursuant to S.C. Code Ann. Section 58-27-1990, S.C. Code Ann. Regs. 103-829, and 103-352, and applicable South Carolina law, respondent, Duke Energy Progress, LLC (“DEP” or the “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on the merits because it fails to state a claim upon which relief can be granted. The Company also requests that the filing deadlines for all parties and the hearing date be held in abeyance until this motion is resolved. In support of its motion, DEP shows the following:

BACKGROUND

Complainant Ashley June has been a customer of Duke Energy Progress at 1214 Manning Rd #B, Sumter, South Carolina since November 14, 2013. Service was established for Ms. June on Rate Schedule RES-41. Ms. June’s complaint indicates that her bill exceeds her finances and that she was not offered a payment arrangement.

Ms. June has been billed each month pursuant to the Company’s Rate Schedule RES-41 and its service rules and in accordance with the Commission’s Rules and Regulations. A review of the entire billing and payment history shows a consistent pattern of delinquency.

DEP's records show that Ms. June has had difficulty paying her bills for many years. She has sought the assistance of the S.C. Office of Regulatory Staff ("ORS") on numerous occasions over the last several years and has received funds from local assistance agencies. DEP has entered into numerous payment agreements with Ms. June. DEP has worked diligently to assist Ms. June with payment arrangements, but she continues to carry a past due balance despite financial assistance in the last year from local agencies. The Company would urge Ms. June to seek assistance in paying her outstanding bill.

S.C Code Ann Regs. 103-352 requires utilities to offer a payment plan of up to six months that will allow customers to bring their account current. As indicated above, the Company has made numerous deferred payment plans with Ms. June. The objective of such plans is to bring the account current so that the customer can maintain a current status going forward. Even with the deferred payment agreements, Ms. June has not been able to keep her account current.

As of March 30, 2017 Ms. June's account balance was \$973.60. Ms. June contacted ORS on March 22, 2017. On March 22, 2017, the ORS sent Ms. June a letter confirming that it had been unable to resolve the matter and notified her that she had fifteen days from the date of the letter to file a complaint with the Commission. The fifteen-day deadline was April 6, 2017. *See* ORS letter to Ms. June dated March 22, 2017, attached as **Exhibit 1**.

In her complaint, Ms. June indicates that her bill is higher than expected and she does not have \$763. She seeks to enter into a payment arrangement. However, S.C. Code Regs. 103-352 requires that the Company offer an agreement for up to six months which the company has done. Ms. June has failed to meet the requirements of that payment plan. DEP is not under any obligation to offer another payment plan.

ARGUMENT

Duke Energy Progress requests that the Complaint be dismissed pursuant to S.C. Code Ann. 58-27-1990. That provision allows the Commission to dismiss a complaint if it determines that “a hearing is not necessary in the public interest or for the protection of substantial rights.” Ms. June fails to allege any violation of an applicable statute or regulation with respect to Duke Energy Progress’ billing or handling of her account. Ms. June’ billing records show that the Company is charging the appropriate tariff rate approved by the Commission for the registered usage. ORS investigated the complaint and confirmed that DEP was not violating the Commission’s rules and regulations. Ms. June has failed to conform to the terms and conditions of the deferred payment plan as required by S.C. Code Ann. Regs. 103-352(c).

Duke Energy Progress respectfully requests that the Complaint be dismissed because it fails to allege any violation of an applicable statute or regulation with respect to Duke Energy Progress’ handling of Ms. June’ account.

CONCLUSION

DEP has worked diligently to assist Ms. June with deferred payment plans, but she has consistently failed to meet her obligations under the plans. There is no allegation that Duke Energy Progress violated any applicable statute or regulation in its charges. Therefore, this matter should be dismissed.

WHEREFORE, Duke Energy Progress moves the Commission to dismiss the Complaint with prejudice, hold the testimony deadlines for all parties and the hearing in abeyance pending resolution of this motion, and requests such other relief as the Commission deems just and proper.

Dated this 17th day of April, 2017.

Heather Shirley Smith, Deputy General Counsel
Rebecca J. Dulin, Senior Counsel
Duke Energy Carolinas, LLC
40 West Broad St, Suite 690
Greenville, SC 29601
Telephone 864.370.5045
heather.smith@duke-energy.com
rebecca.dulin@duke-energy.com

and

s/Frank R. Ellerbe, III
Frank R. Ellerbe, III (SC Bar No. 01866)
William H. Jordan (SC Bar No. 76172)
SOWELL GRAY ROBINSON STEPP & LAFFITTE, LLC
Post Office Box 11449
Columbia, South Carolina 29211
Phone: 803-929-1400
fellerbe@sowellgray.com
wjordan@sowellgray.com

Attorneys for Duke Energy Progress, LLC

VERIFICATION

I, Kim H. Smith, am Regulatory Affairs Manager for Duke Energy Progress, LLC. I am responsible for responding to customer inquiries including those directed to the South Carolina Office of Regulatory Staff ("ORS"). I have reviewed the documents received and maintained in the ordinary course of business by Duke Energy Progress. I am familiar with the records of Duke Energy Progress that pertain to Ms. June's electric service account.

I have personally knowledgeable as to the records and information discussed in the attached motion to dismiss, I know them to be true of my own knowledge or I have gained knowledge of them from the records of Duke Energy Progress, which are maintained in the ordinary course of business by Duke Energy Progress.

I, Kim H. Smith, first being duly sworn upon oath, depose and say that I am authorized to represent Duke Energy Progress, that I have read the above motion to dismiss and know the contents; that the contents are true and correct to the best of my knowledge and belief.

Duke Energy Progress, LLC



Kim H. Smith, Regulatory Affairs Manager

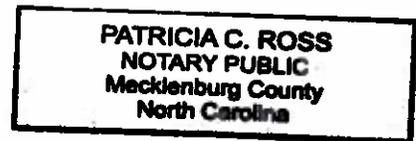
Subscribed and sworn to before me this

17 day of April, 2017

Patricia C. Ross
Print Notary Name: Patricia C. Ross

Notary Public for North Carolina, Mecklenburg County

My Commission Expires: 10-17-2019



**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

Docket No. 2017-112-E

In Re:)
)
Ashley June,)
)
)
Complainant)
)
v.)
)
Duke Energy Progress)
)
)
Respondent.)

EXHIBIT 1

ORS LETTER TO MS. JUNE

DATED MARCH 22, 2017

C. DUKES SCOTT
EXECUTIVE DIRECTOR

1401 Main Street, Suite 900
Columbia, SC 29201



NANETTE S. EDWARDS
DEPUTY EXECUTIVE DIRECTOR

Toll Free: 1-800-922-1531
www.regulatorystaff.sc.gov

April B. Sharpe
Manager, Consumer Services

March 22, 2017

Ashley June
1214 Manning Rd #B
Sumter, SC 29150

Re: File No. 2017-E-695

Dear Ms. June:

This letter provides the results of the South Carolina Office of Regulatory Staff's ("ORS") investigation of the complaint you filed on March 22, 2017, against Duke Energy Progress ("DEP" or "Company"). Your complaint is in reference to a request for payment arrangements to avoid termination of service. In your complaint you advised the ORS that your account is noticed for disconnection for non-payment and requires payment of "\$732.00" by March 27, 2017. You request that DEP agree to stop the termination of service and allow you to pay \$200.00 on April 3, 2017.

The ORS contacted DEP and advised the company of your request. DEP advised that the balance on your account is \$726.23. According to the Company the account is noticed for service disconnection for non-payment of \$726.23, which consists of \$365.48 for an insufficient payment and for \$360.75 current charges for service. The account is currently on a deferred payment arrangement that provided six (6) monthly installment payments. The company did not agree to an extension to your current payment due of \$726.23 due March 27, 2017.

The ORS staff has been unable to obtain an agreement between you and the Company for additional payment arrangements to avoid service disconnection.

The ORS has determined that the Company is in compliance with the PSC regulations.

Please be advised, you have the right to file a petition and request a hearing before the PSC if you are unable to resolve your complaint by working with the utility or the ORS. To file your

complaint with the PSC, complete the Complaint Form, found on the PSC's website at www.psc.sc.gov.

In addition, please be advised that PSC regulation 103-345 (B) regarding complaints states,

"B. When the ORS has notified the electrical utility that a complaint has been received concerning a specific account, the electrical utility shall refrain from discontinuing the service of that account until the ORS's investigation is completed and the results have been received by the electrical utility. Service shall not be discontinued if the complainant requests in writing a hearing before the commission within fifteen days of the ORS mailing the results of the ORS investigation, along with a copy of regulation 103-345, to the complainant. If the complainant does not file the complaint with the commission within fifteen (15) days, service can be discontinued."

Fifteen days from the date of this letter is April 6, 2017. Please be advised, if a request for a hearing is not filed with the PSC or payment of \$726.23 is not paid to DEP by the above date; the utility may proceed with service termination under the PSC regulations governing utility providers.

If you have any questions, please contact me at 1-800-922-1531 ext. 75267, or via e-mail at twaller@regstaff.sc.gov.

Sincerely,



Takisha Waller, Investigator
Consumer Services
Office of Regulatory Staff

Cc. Duke Energy Progress (via e-mail)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2017-112-E

Ashley June,)
)
Complainants/Petitioners,)
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v.)
)
Duke Energy Progress, LLC,)
)
Defendant/Respondent.)
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)
_____)

CERTIFICATE OF SERVICE

This is to certify that I, Toni C. Hawkins, a paralegal with the law firm of Sowell Gray Robinson Stepp & Laffitte, LLC, have this day caused to be served upon the person(s) named below **Duke Energy Progress, LLC's Motion to Dismiss** in the foregoing matter by placing copies of same in the U.S. Mail addressed as follows:

Ashley June
1214 Manning Road, Unit B
Sumter, SC 29150

Jenny R. Pittman, Counsel
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

Dated at Columbia, South Carolina this 17th day of April, 2017.